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Letter dated 8 September 2009 from the Acting Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report from Antigua and Barbuda submitted pursuant to resolution 1624 (2005) (see annex).

I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Ranko **Vilović**
Acting Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

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Annex

Note verbale dated 25 August 2009 from the Permanent Mission of Antigua and Barbuda to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

The Permanent Mission of Antigua and Barbuda to the United Nations presents its compliments to the Chairman of the Counter-Terrorism Committee and has the honour to submit to the Committee the national report of Antigua and Barbuda pursuant to the provisions of resolution 1624 (2005) (see enclosure).

Enclosure

Report of Antigua and Barbuda on resolution 1624 (2005)

Paragraph 1

1.1 **What measures does Antigua and Barbuda have in place to prohibit by law and to prevent incitement to commit a terrorist act or acts? What further steps, if any, are under considerations?**

Article 20 of the Prevention of Terrorism Act of 2005 punishes anyone who counsels or procures the commission of an offence under the Act, or conspires to commit such an act. Article 13 prohibits recruitment for a terrorist group or act. Article 17 makes the conspiracy provisions applicable both within and outside the national territory.

The Public Order Act of 1972 contains several articles relevant to incitement. Article 33 makes it an offence punishable by fine and up to twelve months imprisonment to publish, distribute or publicly use words which are threatening, abusive or disturbing, being matter or words intended or likely to stir up or capable of stirring up hatred against a member of the national public distinguished by race, place of origin, political opinions, colour or creed. Article 36 makes it an offence punishable by fine or up to two years imprisonment to behave or incite any other person to behave in a manner which is intended or is likely to incite or induce or is capable of inciting or inducing any person to kill or do physical injury to any person, class or community, to destroy or damage any property or to deprive any person by force or fear of the possession or use of property. Other provisions of the Act require a permit from the Chief of Police for public meetings and regulate such meetings in the interest of preserving public order and the interest of public safety. Violations of these provisions are also criminally punishable.

The Royal Police Force of Antigua and Barbuda dedicates resources in a Special Branch. This Branch is responsible for identifying potential terrorist-related activity within the community and for intelligence exchanges with foreign counter-terrorism partners.

1.2 **What measures does Antigua and Barbuda take to deny safe haven to any persons with respect to whom there is credible and relevant information giving serious reasons for considering that they have been guilty of incitement to commit a terrorist act or acts?**

Antigua has been a party to the 1951 Convention on the Status of Refugees and its updating Protocol of 1967 since 1995. That agreement provides exclusion clauses for persons whom there is reason to believe guilty of specific crimes or acts contrary to the purposes and principles of the United Nations. Resolution 1373, paragraph 5, specifically declares that acts, methods and practices of terrorism and of financing, planning and inciting terrorist acts are contrary to the purposes and principles of the United Nations. Accordingly, the legislation adopting and implementing the Refugee Convention and protocol should contain a provision allowing exclusion of such person. Unfortunately, to date, Antigua

and Barbuda does not have any legislation that adopts or implements the United Nations Refugee Convention and Protocol.

Articles 41 of the Prevention of Terrorism Act of 2005 specifically gives the Minister responsible for immigration the power to refuse the application of any person applying for status as a refugee, if he or she has reasonable grounds to believe that the applicant has committed a terrorist act or is likely to be involved in the commission of a terrorist act. Article 40 provides similar powers with respect to permitting any non-refugee an endorsement or other authority to enter the country, and to ordering a person to leave the country and remain thereafter out of Antigua and Barbuda.

1.3 **How does Antigua and Barbuda cooperate with other States in strengthening the security of its international borders with a view to preventing those guilty of incitement to commit a terrorist act or acts from entering their territory, including by combating fraudulent travel documents and to the extent attainable, by enhancing terrorist screening and passenger security procedures?**

Multilaterally, Antigua and Barbuda works through for a such as those established under the United Nations system, the EU, and G8 to devise better processes and procedures and to determine best practices — such as seeking assistance from Interpol's systems on lost and stolen passports, and those with outstanding arrest warrants.

Both bilaterally and regionally, our Police and Security Intelligence located in the Royal Police Force of Antigua and Barbuda work with their counterparts in other CARICOM countries and with the Regional Security System in the Caribbean to ensure that those people who are of interest but with no outstanding warrant are identified as appropriate. The Royal Police Force of Antigua and Barbuda dedicates resources in a Special Branch. This Branch is responsible for identifying potential terrorist-related activity within the community and for intelligence exchanges with foreign counter-terrorism partners, which includes liaising via Interpol National Central Bureaux.

Lastly, counter-terrorism interventions at Antigua and Barbuda's borders are executed by the Special Branch of the Royal Police Force of Antigua and Barbuda (Police), and is supported by other border agencies such as the Antigua and Barbuda Coast Guard which is part of the Antigua and Barbuda Defense Force, the Antigua and Barbuda Defense Force, the Office of National Control and Money Laundering Policy (ONDCP), the Antigua and Barbuda Immigration Department, and the Antigua and Barbuda Customs and Excise Division. Such interventions as these are wholly based on the intelligence and direction of the Special Branch of the Royal Police Force of Antigua and Barbuda (Police) since this Special Branch is tasked with identifying potential terrorist-related activity within the community and for intelligence exchanges with foreign counter-terrorism partners.

1.5 **What steps is Antigua and Barbuda taking to counter incitement of terrorist acts motivated by extremism and intolerance and to prevent subversion of education, cultural and religious institutions by terrorists and their supporters?**

Antigua and Barbuda is a small island developing state with a very small population. As a result, there is a lack of any ideologically extreme movement or any extremist groups in the national populace, and, as such there is no cultural resistance of the people of Antigua and Barbuda to violent movements. In addition, the private schools, cultural and religious institutions in Antigua and Barbuda do not endorse or engage in spreading violent dogmas.

1.6 **What is Antigua doing to ensure that any measures taken to implement paragraphs 1, 2 and 3 of resolution 1624 (2005) comply with all of its obligations under international law, in particular international human rights law, refugee law, and humanitarian law?**

Article 1.2 of the Prevention of Terrorism Act of 2005 contains a saving clause in its definition of terrorist acts, which carefully exempts acts committed in pursuance of a protest, industrial action, demonstration or stoppage of work. This expressly protects both political demonstrations and the right to engage in union activity and conduct protests within reasonable limits.

Articles 40 and 41 of the Prevention of Terrorism Act of 2005 implement the principle of the Refugee Convention on denial of entry to suspected terrorists. An aggrieved individual may apply to the High Court for judicial review of the exercise of the Minister's power under Article 40 (1) or someone facing removal under Article 40 (2) for an order of habeas corpus or other order quashing the decision of the Minister.

Antigua and Barbuda is neither a signatory nor a ratifying state of the International Covenant on Civil and Political Rights. Although the provisions of the Covenant do not bind Antigua and Barbuda, nevertheless the Public Order Act, 1972 implements the objective Article 20-2 of that of the International Covenant on Civil and Political Rights, which requires that "Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law".

In addition to the above, Antigua and Barbuda always seeks to abide by its international obligations, and as a result the State is particularly keen to incorporate international obligations relating to human rights in its domestic legislation. For instance, there are numerous guarantees in relation to fair treatment in criminal procedure law. Under Articles 3-17 of the Constitution of Antigua and Barbuda covers and enshrines the Fundamental Freedoms (human rights) that protect freedom of expression, freedom of thought, religion and expression, just to name a few. Finally, even though Antigua and Barbuda does not have the supporting legislation to the United Nations Refugee Convention and its protocol, this does not negate the fact that in this country, the human rights freedoms and privileges of this Convention and Protocol are entirely respected and applied.